

**IN THE UNITED STATES DISTRICT COURT FOR THE  
SOUTHERN DISTRICT OF WEST VIRGINIA**

**BRANCH BANKING AND TRUST COMPANY,  
a North Carolina banking corporation,**

**Plaintiff,**

**v.**

**Civil Action No. 5:14-cv-25740  
Honorable Irene C. Berger**

**THE TRACTOR COMPANY, INC.,  
a West Virginia corporation; JOE D. ISON;  
and WILLIAM E. CONNOLLY, individually,**

**Defendants.**

**CONSENT JUDGMENT AS TO DEFENDANT JOE D. ISON**

Plaintiff Brank Banking and Trust Company (“BB&T”), by counsel, and Defendant Joe D. Ison (“Mr. Ison”), by counsel, request that this Court enter this Consent Judgment as to Mr. Ison only. BB&T and Mr. Ison agree and stipulate as follows:

**FINDINGS OF FACT**

1. BB&T is a North Carolina banking corporation authorized to do business in the State of West Virginia.
2. TTC is a West Virginia corporation with its principal place of business in Raleigh County, West Virginia. TTC became effective on December 18, 1998.
3. Mr. Ison is an individual who currently resides in South Carolina and, at the time of the incidents giving rise to the litigation, resided in and regularly transacted business in Raleigh County, West Virginia.
4. During the litigation and after the completion of discovery, BB&T filed *Plaintiff Branch Banking and Trust Company’s Motion for Summary Judgment Against Defendants* and

accompanying memorandum of law and exhibits (the “Motion for Summary Judgment”) [Doc 45, 45-1 – 45-12, 46].

5. On October 14, 2015, Defendants filed their *Response to Banking and Trust Company’s Motion for Summary Judgment* [Doc 49, 49-1, 50].

6. BB&T filed *Plaintiff Branch Banking and Trust Company’s Reply in Support of Plaintiff Branch Banking and Trust Company’s Motion for Summary Judgment Against Defendants* on October 20, 2015 [Doc 51, 51-1 – 51-8].

7. On October 20, 2015, Defendant The Tractor Company, Inc. filed a *Suggestion of Bankruptcy* [Doc 52]. Consequently, the Court directed the parties in her October 29, 2015, Order, to submit a position statement regarding the necessity to stay any or all portions of the action [Doc 53]. On November 3, 2015, BB&T filed *Plaintiff Branch Banking and Trust Company’s Position Statement on Stay of Litigation Due to Bankruptcy* [Doc 54, 54-1]. On November 17, 2015, Defendants Joe D. Ison and William E. Connolly sent a letter to the Clerk of the Court enclosing a Notice of Removal to the United States Bankruptcy Court for the Western District of Pennsylvania, adversary proceeding no. 15-02220-CMB [Doc 55]. On December 11, 2015, the Court entered an Order suspending the Scheduling Order [Doc 56] pending a ruling by the United States Bankruptcy Court for the Western District of Pennsylvania on the removal (the “Pennsylvania Court”). On April 1, 2016, the Pennsylvania Court entered a *Consent Order of Court*, remanding the adversary proceeding back to the United States District Court for the Southern District of West Virginia [Doc 59]. Consequently, a *First Amended Scheduling Order* was entered in the instant action [Doc 60].

8. On July 7, 2016, the Court granted BB&T’s Motion for Summary Judgment [Doc 68].

9. On July 11, 2016, the Court entered judgment as to Mr. Ison [Doc 69].
10. BB&T and Mr. Ison wish to resolve the judgment amount as to Mr. Ison.

**Note 15**

11. As of July 11, 2016, the balance due and owing pursuant to Note 15 was \$131,655.73, which amounts to \$112,000.00 in unpaid principal, \$19,621.73 in accrued but unpaid interest and \$34.00 in fees and costs. Interest on Note 15 continues to accrue at a rate of \$26.44 per day from July 12, 2016, until the entry of this Consent Judgment.

**Note 26**

12. As of July 11, 2016, the balance due and owing pursuant to Note 26 was \$547,016.65, which amounts to \$466,899.40 in unpaid principal, \$79,794.40 in accrued but unpaid interest, and \$322.85 in fees and costs. Interest on Note 26 continues to accrue at a rate of \$110.24 per day from July 12, 2016, until the entry of this Consent Judgment.

**Note 27**

13. As of July 11, 2016, the balance due and owing pursuant to Note 27 was \$302,220.73, which amounts to \$257,702.57 in unpaid principal and \$44,518.16 in accrued but unpaid interest. Interest on Note 27 continues to accrue at a rate of \$60.85 per day from July 12, 2016, until the entry of this Consent Judgment.

**Note 28**

14. As of July 11, 2016, the balance due and owing pursuant to Note 28 was \$796,615.61, which amounts to \$673,048.02 in unpaid principal, \$122,331.10 in accrued but unpaid interest, \$1,236.49 in fees and costs. Interest on Note 28 continues to accrue at a rate of \$158.91 per day from July 12, 2016, until the entry of this Consent Judgment.

**Note 29**

15. As of July 11, 2016, the balance due and owing pursuant to Note 29 was \$758,703.76, which amounts to \$640,889.00 in unpaid principal, \$116,637.34 in accrued but unpaid interest, and \$1,177.42 in fees and costs. Interest on Note 29 continues to accrue at a rate of \$151.32 per day from July 12, 2016, until the entry of this Consent Judgment.

**Note 30**

16. As of July 11, 2016, the balance due and owing pursuant to Note 30 was \$185,924.85, which amounts to \$157,500.00 in unpaid principal, \$28,103.94 in accrued but unpaid interest, and \$320.91 in fees and costs. Interest on Note 30 continues to accrue at a rate of \$37.19 per day from July 12, 2016, until the entry of this Consent Judgment.

**Note 31**

17. As of July 11, 2016, the balance due and owing pursuant to Note 31 was \$187,046.25, which amounts to \$158,450.00 in unpaid principal, \$28,273.40 in accrued but unpaid interest and \$322.85 in fees and costs. Interest on Note 31 continues to accrue at a rate of \$37.41 per day from July 12, 2016, until the entry of this Consent Judgment.

**Attorneys' Fees and Costs**

18. Pursuant to Notes 15, 26, 27, 28, 29, 30, and 31 (collectively, the "Notes"), and the Guaranty Agreements executed by Mr. Ison for each of the Notes, BB&T is entitled to recover its attorneys' fees and costs associated with pursuing collection of the Notes.

19. The attorneys' fees and costs incurred associated with pursuing collection of the Notes amounts to \$128,870.96 as of July 11, 2016.

### **CONCLUSIONS OF LAW**

20. BB&T has suffered damages in the amount of \$2,909,183.58, which constitutes the remaining unpaid principal balance of \$2,466,488.99 under the Notes, accrued but unpaid interest of \$439,280.07, and fees and costs in the amount of \$3,414.52, excluding attorneys' fees and costs.

21. In addition, BB&T is entitled to \$128,870.96 in attorneys' fees and costs associated with collecting the amounts due and owing under the Notes pursuant to the terms of the same.

22. The total judgment amount awarded to BB&T is \$3,038,054.54.

### **CONSENT**

56. Mr. Ison agrees, solely and exclusively for the purposes of this agreement and the entry of this Consent Judgment, that:

a. Mr. Ison has the following rights, among others, given the procedural posture of this matter as of July 11, 2016: the right to appeal decisions entered by this Court;

b. Mr. Ison waives all rights set forth in the paragraph above;

c. Mr. Ison consents and agrees that the amount presently due and owed to BB&T is Two Million Nine Hundred Nine Thousand One Hundred Eighty-Three and 58/100 Dollars (\$2,909,183.58), plus attorneys' fees and costs of \$128,870.96; and,

d. Mr. Ison consents to the entry of this *Consent Judgment* as to Mr. Ison only.

### **ORDER OF JUDGMENT**

**WHEREFORE**, on the basis of the Order granting Summary Judgment in favor of BB&T, the foregoing Findings of Fact and Conclusions of Law, and on the basis of Mr. Ison's

consent, this Court hereby **ORDERS** that judgment be entered against Mr. Ison in the amount of Two Million Nine Hundred Nine Thousand One Hundred Eighty-Three and 58/100 Dollars (\$2,909,183.58) plus: (1) pre-judgment interest at the contractual rate from July 12, 2016, to the date of the entry of this Order; (2) post-judgment interest accruing from the date this Order is entered until the date the judgment represented by this Order is satisfied at the applicable statutory rate; and, (3) BB&T's reasonable attorneys' fees and costs associated with collecting the amounts due and owing pursuant to the Notes in the amount of \$128,870.96.

The Clerk of this Court is hereby **DIRECTED** to send certified copies of this Order to the following individuals:

Angela D. Herdman, Esq.  
Spilman Thomas & Battle, PLLC  
P.O. Box 273  
Charleston, WV 25321-0273

Robert O. Lampl, Esquire  
James R. Cooney, Esquire  
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Christopher S. Smith, Esquire  
Hoyer Hoyer & Smith PLLC  
22 Capitol Street  
Charleston, WV 25301


*Counsel for Defendant Joe D. Ison*

Dated: July 18, 2016

/s/ Angela D. Herdman  
Angela D. Herdman  
Spilman Thomas & Battle, PLLC  
P.O. Box 273  
Charleston, WV 25321-0273  
*Counsel for Plaintiff*

/s/ James R. Sheatsley  
James R. Sheatsley  
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P. O. Box 5518  
Beckley, WV 25801  
*Counsel for Joe D. Ison*

September 7, 2017  
Entered

  
IRENE C. BERGER  
UNITED STATES DISTRICT JUDGE  
SOUTHERN DISTRICT OF WEST VIRGINIA

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and WILLIAM E. CONNOLLY, individually,**

**Defendants.**

**CERTIFICATE OF SERVICE**

I, Angela D. Herdman, hereby certify that on July 18, 2016, I electronically filed the “**CONSENT JUDGMENT AS TO DEFENDANT JOE D. ISON**” with the Clerk of the Court using the CM/ECF system which will send electronic notification of the same to:

Christopher S. Smith, Esquire  
Hoyer Hoyer & Smith PLLC  
22 Capitol Street  
Charleston, WV 25301  
*Counsel for Defendants*

James R. Sheatsley  
Gorman, Sheatsley & Company, L.C.  
P. O. Box 5518  
Beckley, WV 25801  
*Counsel for Defendant Joe D. Ison*



Also, I hereby certify that on July 18, 2016, I deposited a copy of the “**CONSENT JUDGMENT AS TO DEFENDANT JOE D. ISON**” in an envelope via Federal Express, and via e-mail, to the following:

Robert O. Lampl, Esquire  
James R. Cooney, Esquire  
Robert O. Lampl Law Office  
960 Penn Avenue, Suite 1200  
Pittsburgh, PA 15222  
*Counsel for Defendants*

/s/ Angela D. Herdman  
Angela D. Herdman (WV Bar # 8585)